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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,163	09/29/2003	Michael A. Rothman	42P17574	5557

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Anthony H. Azure  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP  
Seventh Floor  
12400 Wilshire Boulevard  
Los Angeles, CA 90025

EXAMINER

BROWN, MICHAEL J

ART UNIT PAPER NUMBER

2116

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/675,163

Applicant(s)

ROTHMAN ET AL.

Examiner

Michael J. Brown

Art Unit

2116

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 28-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

1. Claims 1-27 have been cancelled.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 28-51 are rejected under 35 U.S.C. 102(b) as being anticipated by DeRosa et al.(US Patent 5,822,565).

As to claim 28, DeRosa discloses a method comprising determining if a computer(computer system 10, see Fig. 1) can read a block of data(configuration utility 20, see Fig. 1) on a medium(main memory 16, see Fig. 1) coupled with the computer during a pre-boot phase(see column 1, lines 28-31), and in a case where the computer cannot read the block of data, reading a header on the medium that describes a location of a program(underlying system software 22, see Fig. 1) on the medium, the program to enable the computer to read the block of data(see column 5, lines 43-46), and loading the program in the computer(see column 4, lines 35-38).

As to claim 29, DeRosa discloses the method wherein the program is a file system driver(see column 5, lines 54-62).

As to claim 30, DeRosa discloses the method wherein the file system driver is to operate in accordance with the Extensible Firmware Interface (EFI) framework standard(see column 8, lines 49-51).

As to claim 31, DeRosa discloses the method further comprising mounting a file system using the file system driver, and reading the data using the file system(see column 4, lines 53-61).

As to claim 32, DeRosa discloses the method wherein the program is a pre-boot recovery utility(see column 4, lines 32-38).

As to claim 33, DeRosa discloses the method wherein the pre-boot recovery utility is an Extensible Firmware Interface (EFI) application(see column 8, lines 49-51).

As to claim 34, DeRosa discloses the method further comprising recovering a storage device coupled with the computer by reading a portion of the block of data and writing the portion to the storage device using the pre-boot recovery utility(see column 4, lines 35-38).

As to claim 35, DeRosa discloses the method further comprising recovering a corrupted operating system boot target stored on the storage device using the pre-boot recovery utility, wherein the medium includes a magnetic backup tape(see column 4, lines 35-38).

As to claim 36, DeRosa discloses an article of manufacture comprising a first machine-readable medium(disk drive 12, see Fig. 1) including a plurality of instructions(machine instructions, see column 4, lines 33-34) which when executed perform operations comprising determining if a computer(computer system 10, see Fig.

1) can read a block of data(configuration utility 20, see Fig. 1) on a second machine readable medium(main memory 16, see Fig. 1) coupled with the computer during a pre-boot phase(see column 1, lines 28-31). DeRosa also discloses that in a case where the computer cannot read the block of data, reading a header on the second medium that describes a location of a program(underlying system software 22, see Fig. 1) on the second medium, the program to enable the computer to read the block of data(see column 5, lines 43-46), and loading the program in the computer(see column 4, lines 35-38).

As to claim 37, DeRosa discloses the article of manufacture wherein the program is a file system driver(see column 5, lines 54-62).

As to claim 38, DeRosa discloses the article of manufacture wherein the file system driver is to operate in accordance with the Extensible Firmware Interface (EFI) framework standard(see column 8, lines 49-51).

As to claim 39, DeRosa discloses the article of manufacture wherein execution of the plurality of instructions further perform operations comprising mounting a file system using the file system driver, and reading the data using the file system(see column 4, lines 53-61).

As to claim 40, DeRosa discloses the article of manufacture wherein the program is a pre-boot recovery utility(see column 4, lines 32-38).

As to claim 41, DeRosa discloses the article of manufacture wherein the pre-boot recovery utility is an Extensible Firmware Interface (EFI) application(see column 8, lines 49-51).

As to claim 42, DeRosa discloses the article of manufacture wherein execution of the plurality of instructions further perform operations comprising recovering a storage device coupled with the computer by reading a portion of the block of data and writing the portion to the storage device using the pre-boot recovery utility(see column 4, lines 35-38).

As to claim 43, DeRosa discloses the article of manufacture further comprising recovering a corrupted operating system boot target stored on the storage device using the pre-boot recovery utility, wherein the second medium includes a magnetic backup tape(see column 4, lines 35-38).

As to claim 44, DeRosa discloses a computer system(computer system 10, see Fig. 1), comprising a processor (CPU 11, see Fig. 1) and at least one non-volatile storage device(disk drive 12, see Fig. 1) operatively coupled to the processor. DeRosa also discloses that the at least one non-volatile storage device including firmware instructions(machine instructions, see column 4, lines 33-34) which when executed by the processor perform operations comprising determining if the computer can read a block of data(configuration utility 20, see Fig. 1) on a medium(main memory 16, see Fig. 1) coupled with the computer during a pre-boot phase(see column 1, lines 28-31). DeRosa further discloses that in a case where the computer cannot read the block of data, reading a header on the medium that describes a location of a program(underlying system software 22, see Fig. 1) on the medium, the program to enable the computer to read the block of data(see column 5, lines 43-46), and loading the program in the computer(see column 4, lines 35-38).

As to claim 45, DeRosa discloses the system wherein the program is a file system driver(see column 5, lines 54-62).

As to claim 46, DeRosa discloses the system wherein the file system driver is to operate in accordance with the Extensible Firmware Interface (EFI) framework standard(see column 8, lines 49-51).

As to claim 47, DeRosa discloses the system wherein execution of the firmware instructions further perform operations comprising mounting a file system using the file system driver, and reading the data using the file system(see column 4, lines 53-61).

As to claim 48, DeRosa discloses the system wherein the program is a pre-boot recovery utility(see column 4, lines 32-38).

As to claim 49, DeRosa discloses the system wherein the pre-boot recovery utility is an Extensible Firmware Interface (EFI) application(see column 8, lines 49-51).

As to claim 50, DeRosa discloses the system further comprising recovering a storage device coupled with the computer by reading a portion of the block of data and writing the portion to the storage device using the pre-boot recovery utility(see column 4, lines 35-38).

As to claim 51, DeRosa discloses the system further comprising recovering a corrupted operating system boot target stored on the storage device using the pre-boot recovery utility, wherein the medium includes a magnetic backup tape(see column 4, lines 35-38).

### ***Response to Arguments***

3. Applicant's arguments filed 9/1/2006 have been fully considered but they are not persuasive. Applicant argues that DeRosa does not disclose "in a case where the computer cannot read the block data, reading a header on the medium that describes a location of a program on the medium, the program to enable the computer to read the block of data. Examiner disagrees as DeRosa discloses that in a case where the computer(computer system 10, see Fig. 1) cannot read the block of data(configuration utility 20, see Fig. 1), reading a header on the medium(main memory 16, see Fig. 1) that describes a location of a program(underlying system software 22, see Fig. 1) on the medium, the program to enable the computer to read the block of data(see column 5, lines 43-46).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is (571)272-5932. The examiner can normally be reached on Monday-Thursday from 7:00am to 5:30pm(EST).


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIRS) system. Status information for the published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications are available through Private PAIR only.



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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll-free).

Michael J. Brown  
Art Unit 2116



REHANA PERVEEN  
SUPERVISORY PATENT EXAMINER  
11/9/06